

**DATE:** February 14, 2001

**TO:** Senator Dick Ackerman

**FROM:** Senate Republican Fiscal Office

**SUBJECT:** Substance Abuse and Crime Prevention Act of 2000



Proposition 36 -- the Substance Abuse and Crime Prevention Act of 2000, approved on the November 2000 ballot -- provides for diversion of certain nonviolent drug offenders into probation and treatment, in lieu of incarceration. The proposition goes into effect on July 1, 2001.

## **FUNDING APPROPRIATION AND ALLOCATION TO COUNTIES**

Proposition 36 appropriates \$60 million in the 2000-01 fiscal year, and \$120 million annually through fiscal year 2005-06 (for a total of \$660 million) from the General Fund to a newly created "Substance Abuse Treatment Trust Fund." These funds will be allocated annually by the State Department of Alcohol and Drug Programs (DADP) to counties based on a combination of population, drug arrests and substance abuse treatment caseload. In the current year, the largest allocation will go to Los Angeles County with \$15.7 million (26 percent of the appropriation), followed by San Diego with \$4.5 million. Counties were notified of their respective allocation amounts in early January. Upon the adoption of formal resolutions by county boards of supervisors, DADP will release the funds.

None of the Proposition 36 funds may be used for drug testing, although it is generally considered to be necessary.

## **IMPACT**

There is no consensus among criminologists nationwide as to whether diversion of drug offenders will reduce crime and increase overall public safety. However, the Arizona Supreme Court has concluded that a diversion measure similar to Proposition 36 seems to result "in safer communities and more substance abusing probationers in recovery." Although the long-term impact on public safety is unclear, by diverting nonviolent drug offenders to treatment, Proposition 36 could reduce intake into the criminal justice system.

### **What Proposition 36 Does**

- Persons convicted of drug use, possession or transportation for personal use will be sentenced to probation and drug treatment rather than incarceration.
- Parole violators who commit these same drug offenses will be referred to treatment rather than returned to prison.
- Drug dealers, manufacturers, and those previously convicted of a serious or violent felony, as defined, would *not* be eligible for diversion.
- Eligible offenders will receive up to one year of drug treatment and up to six months of follow-up care, and may be required to participate in vocational or family training.
- Offenders are required to pay for their treatment, if it is determined that they are reasonably able to do so.
- Upon successful completion of drug treatment, the charges may be dismissed but must be disclosed to law enforcement personnel and when running for elective office, applying for specified licenses, or serving on a jury.

California's non-partisan Legislative Analyst's Office (LAO) has estimated that Proposition 36 could have the following effects:

- **State Prison System:** Intake reduced by as many as 24,000 felons (14.6 percent of the projected June 30, 2001 prison population), saving between \$200 million to \$250 million annually.
- **State Parole System:** Parolee supervision caseload reduced by as many as 9,500 parolees (7.7 percent), saving up to \$25 million annually.
- **County Jails:** Intake could decrease by 12,000 offenders, saving approximately \$40 million annually.
- **Trial Courts:** Potential savings of several million dollars for trial court, prosecution, and indigent defense counsel costs since fewer offenders would contest their charges at trial. Some of these savings could be offset by additional court costs to monitor treatment compliance.

## **FUNDING DRUG TESTS IS ESSENTIAL**

Both program administrators and drug treatment providers agree that testing program participants is essential to implementing Proposition 36. Drug testing will be required to determine if the offender is complying with treatment requirements and making progress towards rehabilitation. Only through regular drug testing can those who are not compliant be identified and incarcerated. Without some form of drug testing, treatment evaluation and assessment would be nearly impossible.

Proposition 36 prohibits using the funds it appropriates for drug testing, and no funding has been set aside for this purpose in the Governor's Budget. Given that it is a necessary part of implementation, the administration should include drug-test funding in the May Revision. The DADP indicates that it is preparing a funding proposal for potential inclusion in the May Revision.

## **OPPORTUNITY FOR "CHARITABLE CHOICE"**

In a 1999 review of California's substance abuse treatment system, the LAO reported that the number of persons requiring treatment will substantially exceed existing treatment capacity. As of September 1998, counties reported 5,000 people on drug treatment waiting lists. Proposition 36 would potentially add another 36,000 people annually needing treatment. Although diversion of drug offenders to treatment would begin in less than 6 months, it often takes up to 2 years for programs to fully ramp up.

One key to addressing the impending shortage of treatment capacity may well be to involve faith-based organizations (FBO's) in providing treatment. Since many FBO's already provide these services, reliance on them could minimize delays in bringing new capacity on line. A recent study by a national coalition of voluntary organizations and foundations found that there are over 250,000 churches, synagogues, temples and mosques nationwide and between 40 and 50 percent provide meal programs, substance abuse counseling, and shelter. Besides increasing capacity, empirical evidence documented in a 1998 report by the Manhattan Institute found that religion has a positive effect on reducing deviancy and delinquency in 75 percent of the 400 studies.

*On January 29, 2001, President Bush issued two Executive Orders that would facilitate collaboration with FBO's. The Joint Republican Budget Priorities released in December 2000 include legislation to expand "Charitable Choice" provisions in California by prohibiting state programs from denying contracts to qualifying service organizations solely on the basis of "religious character." Given the federal lead in this area and the need for rapid capacity ramp-up, Proposition 36 provides a golden opportunity for California to expand "Charitable Choice" and explore new avenues of social services delivery.*

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